

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 116 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE R.BALIA. and  
MR.JUSTICE A.R.DAVE

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

-----  
CALAMA PUMPS PVT. LTD.

Versus

COMMISSIONER OF INCOME-TAX

-----  
Appearance:

MR NR DIVETIA for Petitioner  
MR MANISH R BHATT for Respondent No. 1

-----  
CORAM : MR.JUSTICE R.BALIA. and  
MR.JUSTICE A.R.DAVE

Date of decision: 11/11/98

ORAL JUDGEMENT

1. At the instance of the assessee, the Income Tax Appellate Tribunal, Ahmedabad Bench "C" has submitted the statement of case and referred the following question of law arising out of its order in appeal for the assessment year 1978-79 in the case of assessee decided on 16.7.83:

"Whether, on the facts and in the circumstances of the case, the Tribunal is right in law in holding that a sum of Rs.1930/- or no part of it was allowable as deduction against the income of the year under consideration?"

2. While the assessee has claimed that the amount paid by him during the year was for the use of land and was a revenue expenditure which had to be allowed under Section 37 of the Income Tax Act. The assessing officer as well as both the appellate authorities have held the same to be capital in nature being part of the cost of land. The question has arisen in successive years. For the assessment year preceding the one in question also identical question has been referred to this Court for its opinion in respect of like expenditure for the assessment year 1977-78 which was subject matter of Income Tax Reference No. 247 of 1982 which had been decided by this Court on 13.12.95 by answering the same in affirmative, in favour of the Revenue and against the Assessee. Following the decision rendered in assessee's own case, the question referred in this case is also answered in affirmative, that is to say, in favour of the Revenue and against the Assessee.

There shall be no order as to costs.

(Rajesh Balia, J)

(A.R. Dave, J)